

**Nursing and Midwifery Council
Fitness to Practise Committee**

**Substantive Order Review Meeting
Wednesday 13 July 2022**

Nursing and Midwifery Council
Virtual Meeting

Name of registrant: **Victoria Ethel Ansah**

NMC PIN: 72Y2215E

Part(s) of the register: Nursing – Sub Part 1 and 2
Registered Nurse – Adult (December 2005)
Registered Nurse – Adult (November 2014)

Relevant Location: Lambeth

Type of case: Misconduct

Panel members: Gregory Hammond (Chair, Lay member)
Linda Tapson (Registrant member)
Alice Robertson Rickard (Lay member)

Legal Assessor: Suzanne Palmer

Hearings Coordinator: Elena Nicolaou

Order being reviewed: Suspension order (3 months)

Fitness to practise: Impaired

Outcome: **Striking-off order to come into effect at the end of 17 August 2022 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mrs Ansah's email address on 31 May 2022.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, the earliest date on which it would be held, and other matters required by the procedural rules.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Ansah has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Decision and reasons on review of the substantive order

The panel decided to impose a striking off order.

This order will come into effect at the end of 17 August 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the ninth review of the orders that have been made. A 24-month conditions of practice order was originally imposed on 5 January 2011 and replaced with a 9 month suspension order at a substantive order review hearing held on 18 August 2011. This suspension order was extended for a further 12 months at a substantive order review on 14 May 2012. On 8 May 2013, the next substantive order review took place, at which the suspension order was replaced with a conditions of practice order for a period of 18 months. The fourth review of the order took place on 13 October 2014, at which point the conditions of practice order was replaced with a six-month suspension order. The fifth reviewing panel on 17 April 2015, decided to impose a further conditions of practice order for a period of 36 months. This order was reviewed on 6 April 2018, when the sixth reviewing panel decided to impose a conditions of practice order for a period of 12 months.

On 26 April 2019 the seventh reviewing panel decided to impose a further conditions of practice order for a period of three years. This order was last reviewed on 29 March 2022, when the eighth reviewing panel decided to replace the conditions of practice order with a suspension order for a period of three months.

The current order is due to expire at the end of 17 August 2022.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

‘That you, whilst employed as an agency nurse on Davidson ward, Kings College Hospital NHS Trust on the morning of 26 March 2008:

- 1. Gave patient A, patient B’s medication*
- 2. Gave patient B patient A’s medication*

And in light of the above your fitness to practise is impaired by reason of your misconduct.’

The eighth reviewing panel determined the following with regard to impairment:

‘The panel considered whether Mrs Ansah’s fitness to practise remains impaired.

The panel noted that Mrs Ansah attended the last substantive order review hearing on 26 April 2019 and gave the following evidence:

‘You told the panel that you have sat a number of pre-selection tests for a return to practice course and that you passed the literacy part of the process on the first occasion. However, you told the panel that you have sat the numeracy test subsequently on three occasions, the most recent being in August 2018, and have yet to pass. You showed the panel a book recommended by a university, in order to assist you with the passing of your

numeracy test. You told the panel that you are intending to sit the test again if it is held in September of this year.

You told the panel that your fitness to practise is currently impaired as you have not worked as a nurse for eleven years. You said that you were hoping to pass the numeracy test and then attend for an interview at Guy's, London for the RTPC. You told the panel that you are "making an effort" to attempt to try and get back into nursing.

You told the panel that you want to return to nursing soon after the completion of a RTPC.'

Despite Mrs Ansah's engagement and stated intentions at the last hearing, the panel noted that she has not engaged with the NMC, provided any evidence to demonstrate that she has complied with the conditions of practice order or any information about her future intentions.

The panel noted that Mrs Ansah has not worked as a registered nurse since 2010 and therefore there is no evidence to suggest that she has addressed the shortfalls identified. The panel determined that there is a continuing risk of repetition of the medication error and a consequent risk of harm to patients. The panel therefore found that Mrs Ansah's fitness to practice remains impaired on public protection grounds.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mrs Ansah's fitness to practise remains impaired.'

The eighth reviewing panel determined the following with regard to sanction:

'Having found Mrs Ansah's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the clinical failings identified in this case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to clinical failings and the public protection issues identified, an order that does not restrict Mrs Ansah's practice would not be appropriate in the circumstances. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on Mrs Ansah's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel noted that Mrs Ansah has not engaged with the NMC since 2019 or provided any information about her progress in securing a place on a return to practice course. However, the panel was mindful of the impact of the COVID-19 pandemic on such courses. Nevertheless, in the light of Mrs Ansah's lack of engagement with the NMC, the panel determined that a conditions of practice order was no longer workable or appropriate.

Whilst the panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest, it gave serious consideration to a striking off order in view of the age of this case and Mrs Ansah's lack of engagement. The panel noted that the charges occurred in 2008, Mrs Ansah has not practised as a registered nurse since 2010 and she has

failed to fully address the concerns identified. The panel was mindful of the need for finality in regulatory proceedings and the public interest in concluding proceedings expeditiously.

In order to allow Mrs Ansah an opportunity to engage with the NMC and communicate her intentions for the future, the panel determined to impose a suspension order with a review for a period of three months. The panel was of the view that this would allow Mrs Ansah sufficient time to re-engage with the NMC. It considered this to be the most appropriate and proportionate sanction available at this stage but noted that a striking off order is available to the next panel if Mrs Ansah continues to disengage with the NMC.

The panel was mindful that Mrs Ansah may have decided to not return to nursing, and it considered that if this is the case, she may be assisted by the following NMC guidance on 'Allowing orders to expire when a nurse or midwife's registration will lapse' (Reference: REV-3h):

'In certain circumstances allowing a suspension or conditions of practice order to expire following a finding of current impairment may actually be the best way to protect the public from concerns about a nurse, midwife or nursing associate's practice.

Taking this option is likely to be appropriate if:

- the nurse, midwife or nursing associate's registration is only active because of the substantive order being in place,*
- the nurse, midwife or nursing associate doesn't want to continue practising, and*
- the public are protected because the panel have made a clear finding that the nurse, midwife or nursing associate's fitness to practise is currently impaired so that this can be drawn to the attention of any future decision-maker if the nurse, midwife or nursing associate attempts to re-join the register.'*

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 17 May 2022 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- *Mrs Ansah's engagement with the NMC and evidence of her future intentions about her nursing career.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Ansah's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mrs Ansah's fitness to practise remains impaired.

The panel noted that Mrs Ansah has not engaged with the NMC since 2019 and she has not worked as a nurse for some 12 years. It noted that there is no new evidence before it today and no material change in circumstances since the last review hearing. The panel

considered that Mrs Ansah has not yet addressed the concerns or shown evidence of strengthening of practice, and therefore there remains a risk of repetition and a risk of harm to the public.

The last reviewing panel determined that Mrs Ansah was still liable to repeat matters of the kind found proved. Today's panel has received no new information before it to suggest that this position has changed. In light of this the panel determined that Mrs Ansah is still liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required. It is of the view that a well-informed member of the public, aware of all the facts of this case as it stands today, would be concerned should Mrs Ansah be permitted to practise unrestricted, while a risk to the public from un-remediated failings remains.

For these reasons, the panel finds that Mrs Ansah's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Ansah's fitness to practise to be currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the ongoing risk of repetition. The panel noted that the previous reviewing panel expressly drew Mrs Ansah's attention to the NMC's guidance on allowing orders to lapse where a registrant wishes to leave the profession. However, she did not provide any information to assist the panel in relation to whether such a decision could be

taken in this case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered the imposition of a caution order but again determined that, in a case where a risk of repetition remained, a caution order would not restrict Mrs Ansah's practice and would therefore be insufficient to protect the public. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether conditions of practice on Mrs Ansah's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel noted that Mrs Ansah has not engaged with the NMC since 2019 and there is no new information or evidence of her interest in returning to practice. The panel determined that it was unlikely that Mrs Ansah would engage with conditions of practice, as she has been subject to conditions for a number of years previously, and she has had ample opportunity to comply with these but has been unable to do so. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mrs Ansah's misconduct and those arising from her long absence from the profession.

The panel next considered imposing a further suspension order. The panel considered that there is no information from Mrs Ansah as to why she has not been engaging with the NMC for the past three years. The panel considered that Mrs Ansah has had a significant amount of time to address the concerns and strengthen her practice, but she has failed to do so. Mrs Ansah was advised at the last review meeting, via the determination, that a future panel would be able to consider a more severe sanction if it concluded that there needed to be finality to these proceedings. The panel was mindful that the original failings in this case took place 14 years ago. Mrs Ansah has not been able to complete a return to practice course despite this first being mentioned in 2013. She has now disengaged from the process for a period of three years and provided no further information to the NMC. This now calls into question Mrs Ansah's professionalism and her ability or willingness to address her failings. The panel considered that there is a public interest in being able to draw proceedings to a close where there appeared to be no prospect of a return to safe

practice. It concluded that the situation was no longer compatible with ongoing registration. The panel decided that in all the circumstances the only way to protect the public and uphold public trust and confidence in the profession is to impose a striking-off order. It considered that public confidence in the profession can only be maintained if Mrs Ansah is removed from the register, considering the ample opportunities she has had to address the issues.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 17 August 2022 in accordance with Article 30(1).

This decision will be confirmed to Mrs Ansah in writing.

That concludes this determination.